

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 12, 2002

D040761 In re Walker on Habeas Corpus

The petition is denied.

D038189 In re the Estate of Rodriguez

The petition for rehearing is denied.

D039220 In re Amber M. et al., a Juvenile

The opinion filed October 15, 2002, is ordered certified for publication.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Gilbert Nares
Clerk: D. E. Moore

D038909 People etc. v. Driggers

Cause called on merits. Carmela F. Simoncini, Esq. argued for appellant. Scott Taylor, Deputy Attorney General argued for respondent. Ms. Simoncini replied. Cause submitted.

D037565 People etc. v. Cervantes

Cause called on merits. Cynthia M. Sorman, Esq. argued for appellant. Daniel Greene, Certified Law Student argued for respondent. Ms. Sorman replied. Cause submitted.

D037851 People etc. v. Harper

Cause called on merits. Robert H. Gehring, Esq. argued for appellant. Teresa Terrablanca, Deputy Attorney General argued for respondent. Mr. Gehring replied. Cause submitted.

D038716 People etc. v. Simmons

Cause called on merits. Waldemar D. Halka, Esq. argued for appellant. Fredric R. Millar, Jr., Deputy Attorney General argued for respondent. Mr. Halka replied. Cause submitted.

Court recessed at 10:14 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

D038765 Abdulmeseh v. Glenco Associates, L.L.C., et al.

Cause called on merits. William C. Mathews, Esq. argued for appellant. Mark A. Maasch, Esq. argued for respondent. Mr. Mathews replied. Cause submitted.

Court recessed at 10:50 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 12, 2002 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Gilbert Nares and Judith McConnell
Clerk: D. E. Moore

D037395 People etc. v. McBride et al.

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant, Jason McBride. Jan Stiglitz, Esq. argued for appellant, Jeremiah McBride, telephonically. Warren Robinson, Deputy Attorney General argued for respondent. Cause submitted.

D039186 People v. Smith

Cause called on merits. Matthew Braner, Deputy Public Defender argued for appellant. Lynne McGinnis, Deputy Attorney General argued for respondent. Mr. Braner replied. Cause submitted.

Court recessed at 2 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith McConnell

D038540 People etc. v. Pugh

Cause called on merits. Gary V. Crooks, Esq. argued for appellant. Teresa Terrablanca, Deputy Attorney General argued for respondent. Mr. Crooks replied. Cause submitted.

D038646 Dellinger v. San Diego City Employees' Retirement System

Cause called on merits. Candace M. Carroll, Esq. argued for appellant. Roxanne Story Parks, Esq. argued for respondent. Ms. Carroll replied. Cause submitted.

Court recessed at 2:41 p.m. until Wednesday, November 13, 2002 at 9 a.m.

D038380 In re the Marriage of Zamos

The petition for rehearing is denied.

D040878 Yakimovich v. MTC Financial, Inc., et al.

The motions to dismiss the appeal as untimely filed are granted. The appeal is dismissed as to all parties.

D039857 County of San Diego v. Perez

Upon written request filed by appellant, the appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 13, 2002

D040432 Mahdavi v. State of California et al.

The motion to dismiss is granted as to Ralphs Grocery only.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Gilbert Nares and Judith McConnell

Clerk: D. E. Moore

D038316 City of San Diego v. Rancho Penasquitos Partnership et al.

Cause called on merits. David William Skinner, Esq. argued for appellant. Claudia Gacitua Silva, Deputy City Attorney was present in oral argument for appellant, but did not argue. Jeffrey M. Oderman, Esq. argued for respondent. Mr. Skinner replied. Cause submitted.

D037346 Webber v. Holbrook et al.

Cause called on merits. Lowell F. Sutherland, Esq. argued for appellant. Judy G. Keim, Esq. argued for respondent. Mr. Sutherland replied. Cause submitted.

D038865 Rolfe et al. v. California Transportation Commission et al.

Cause called on merits. Thomas D. Mauriello, Esq. argued for appellant. Thomas D. Bunton, Deputy County Counsel argued for respondent, County of San Diego. John J. Flynn, III, Esq. argued for respondent, California Transportation Ventures. John F. Smith, Esq. was present in oral argument for respondent, California Transportation Commission, but did not argue. Mr. Mauriello replied. Cause submitted.

Court recessed at 10:30 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Richard Huffman and Judith McConnell

Clerk: D. E. Moore

D040158 Warburton/Buttner v. Superior Court

Matter called on merits. Albert H. Ebright, Esq. argued for petitioner. Donald Juneau, Esq. argued for real party in interest. Mr. Ebright replied. Matter submitted.

Court recessed at 1:55 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Judith McConnell

D037439 People etc. v. Williams

Cause called on merits. Kevin G. Little, Esq. argued for appellant. Marvin Mizell, Deputy Attorney General argued for respondent. Mr. Little replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 13, 2002 (Continued)

D039990 Trumble v. Superior Court/People-RPI

Matter called on merits. Edward Ware Kinsey, Deputy Public Defender argued for petitioner. Richard Armstrong, Deputy District Attorney argued for real party in interest. Mr. Kinsey replied. Matter submitted.

~~cases argued together~~

D039990 Whatley v. Superior Court/People-RPI

Matter called on merits. Edward Ware Kinsey, Deputy Public Defender argued for petitioner. Richard Armstrong, Deputy District Attorney argued for real party in interest. Mr. Kinsey replied. Matter submitted.

D039113 Morris et al. v. Edmonds et al.

Cause called on merits. Steven P. Taylor, Esq. argued for appellant. Robert W. Buckley, Esq. argued for respondent. Mr. Taylor replied. Cause submitted.

D038483 Morris et al. v. Spangler et al.

Cause called on merits. Steven P. Taylor, Esq. argued for appellant. Matthew C. Smith, Esq. argued for respondent. Mr. Taylor replied. Cause submitted.

Court recessed at 3:11 p.m. until Thursday, November 14, 2002 at 9:00 a.m.

D038226 People v. Jenkins

The judgment is affirmed. Benke, Acting P.J.; I Concur: Huffman, J.;
I Concur in the Result: McDonald, J.

D040600 In re Joshua H., a Juvenile

The appeal is dismissed. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D040360 In re K.S., a Juvenile

The judgment is affirmed. McConnell, J.; We Concur: Benke, Acting P.J., McDonald, J.

D040776 In re Payne on Habeas Corpus

The petition is denied.

D040867 In re Kwasny on Habeas Corpus

The petition is denied.

D040638 Yajaira M. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency

The petition is denied. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 13, 2002 (Continued)

D040087 In re Eric B., et al., Juveniles

The order denying Gwendolyn's section 388 modification petition is affirmed. The order giving the guardians the right to control visitation is reversed. Nares, Acting P.J.;
We Concur: Haller, J., O'Rourke, J.

D040922 In re Senteno on Habeas Corpus

The petition is denied.

D040921 In re Naeem on Habeas Corpus

The petition is denied.

D040844 In re Rivera on Habeas Corpus

The petition is denied.

D037385 Dow Corning Corporation v. Hyspan Precision Products, Inc.,

The judgment is affirmed. Hyspan is awarded costs on appeal. McConnell, J.;
We Concur: Huffman, Acting P.J., O'Rourke, J.

D040924 In re Perez on Habeas Corpus

The petition is denied.

D040973 Dyke v. Superior Court of San Diego County/People

The petition is denied.

D041145 In re Jorge O., a Juvenile

The notice of appeal was filed November 7, 2002 which is more than 60 days after the judgment on July 25, 2002. The case is dismissed as untimely.

**D040457 Louis J. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

The opinion filed October 16, 2002 is ordered certified for publication.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 14, 2002

D037210 Shea Homes Limited Partnership et al. v. Childress Concrete, Inc.

The judgment is affirmed and the matter is remanded to the trial court for its determination of an award to Childress for attorney fees incurred on appeal. Childress is also entitled to costs on appeal.
McConnell, J.; We Concur: Huffman, Acting P.J., Haller, J.

D040689 Tina P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D040594 In re Abdulle on Habeas Corpus

The petition is denied.

D038344 People v. Arthur

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

D038218 People v. Catudio, Sr.

The judgment is affirmed. Nares, J.; We Concur: Kremer, P.J., Benke, J.

D037788 People v. Duncan

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

D038705 Park et al. v. Oh

The judgment is affirmed and the matter remanded to the trial court with directions to determine the amount of attorney fees to be awarded plaintiffs on appeal. O'Rourke, J.;
We Concur: Huffman, Acting P.J., Haller, J.

D038835 Redevelopment Agency of the City of San Diego v. Salvation Army

The opinion filed October 21, 2002, is ordered certified for publication.

D038795 Augustine v. Intervu, Inc.

The judgment is affirmed. Augustine is to recover costs on appeal. McConnell, J.
We Concur: Huffman, Acting P.J., Haller, J.

D038403 People v. Williams

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D039741 In re S.B., a Juvenile

The order dismissing the dependency petition is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D040065 People v. Jefferson

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 14, 2002 (Continued)

D038707 County of San Diego v. ACE Property & Casualty Insurance Company et al.

The judgment is affirmed. ACE is awarded its costs on appeal. McConnell, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D036167 Whispering Ridge Homeowners Association v. Chaudry

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald
Clerk: D. E. Moore

D038522 People etc. v. Klinger

Cause called on merits. Christopher Blake, Esq. argued for appellant. Kevin Vienna, Deputy Attorney General argued for respondent. Mr. Blake replied. Cause submitted.

D039787 Turner v. Superior Court/People-RPI

Matter called on merits. Matthew Braner, Deputy Public Defender argued for petitioner. D. Michael Ebert, Deputy District Attorney argued for real party in interest. Mr. Braner replied. Matter submitted.

D038136 Corbin v. DePrieto

Cause called on merits. William M. Henrich, Esq. argued for appellant. Richard R. Leuthold, Esq. argued for respondent. Mr. Henrich replied. Cause submitted.

Court recessed at 10:01 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

D037249 People v. Meza et al.

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant, Meza. Casey Donovan, Esq. argued for appellant, Moore. Laura Stilwell, Deputy Attorney General argued for respondent. Mr. Ford replied. Mr. Donovan replied. Cause submitted.

D036897 People v. Hopper et al.

D039052 In re Rosales on Habeas Corpus

Causes called on merits. Daniel G. Koryn, Esq. argued for appellant, Hopper. James Michael Fitzpatrick, Esq. argued for appellant, Rosales. Tracy L. Emblem, Esq. argued for appellant, Rosales. Laura Stilwell, Deputy Attorney General argued for respondent. Mr. Koryn replied. Mr. Fitzpatrick replied. Ms. Emblem replied. Appeal (D036897) to be submitted at a later date.

Court recessed at 11:45 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 14, 2002 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

D036226) People v. Lott

D036930) People v. Lott

Cause called on merits. John J. Lanahan, Esq. argued for appellant. Elizabeth Voorhies, Deputy Attorney General argued for respondent. Mr. Lanahan replied. Cause submitted.

D038513) Hanig et al. v. Qualcomm, Inc.

D039029) Hanig et al. v. Qualcomm, Inc.

Cause called on merits. Steven S. Kane, Esq. argued for appellant. David K. Kleinfeld, Esq. argued for respondent. Mr. Kane replied. Cause submitted.

D039937 In re Megan S., a Juvenile

Cause called on merits. Valerie Lankford, Esq. argued for appellant, Dennis S. Richard Pfeiffer, Esq. argued for appellant, Robin R. Linda Fabian, Esq. argued for the minor. Kathryn Bird, Deputy County Counsel argued for respondent. Ms. Lankford replied. Mr. Pfeiffer replied. Ms. Fabian replied. Cause submitted.

Court recessed at 3 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

D040580 People v. Superior Court/Bradway-RPI

Matter called on merits. Richard Stanley Armstrong, Deputy District Attorney argued for petitioner. Matt Braner, Deputy Public Defender argued for real party in interest. Mr. Armstrong replied. Matter submitted.

D038882 Reece et al. v. Barry Hotel et al.

Cause called on merits. William Roudolph Hopkins, Esq. argued for appellant. John R. Clifford, Esq. argued for respondent. Mr. Hopkins replied. Cause submitted.

Court recessed at 3:50 p.m. until Friday, November 15, 2002 at 9:00 a.m.

D041128 Dagmar L.-G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied.

D040468 Elgindy v. Tyson et al./Keyser

Pursuant to California Rules of Court, rule 8, the appeal filed by Amr Elgindy is dismissed for failure to time deposit costs for preparing the record on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 14, 2002 (Continued)

D037962 Freeburn v. Stretton

D038010 Richardson v. Stretton

D038003 Richardson v. Stretton

(consolidated) The orders are affirmed. McConnell, J.; We Concur: Huffman, Acting P.J., Haller, J.

D040555 People v. Hicks

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 15, 2002

Court convened at 9:00 a.m.

Present: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke
Clerk: D. E. Moore

D038556 People v. Holmes, Jr.

Cause called on merits. Wilson Adam Schooley, Esq. argued for appellant. Charles Ragland, Deputy Attorney General argued for respondent. Mr. Schooley replied. Cause submitted.

D036722 People v. Coats

Cause called on merits. Carl Fabian, Esq. argued for appellant. Natasha Cortina, Deputy Attorney General argued for respondent. Mr. Fabian replied. Cause submitted.

D038416 People v. Perez

Cause called on merits. Gregory L. Rickard, Esq. argued for appellant. Gina Werth, Certified Law Student argued for respondent. Mr. Rickard replied. Cause submitted.

Court recessed at 10:10 a.m. until Monday, November 18, 2002 at 9:00 a.m.

D038830 People v. Barasa

The petition for rehearing is denied.

D037520 Capital Trust, Inc. v. Tri-National Development Corporation et al.

The order denying the motion to vacate the judgment is affirmed. CERTIFIED FOR PUBLICATION. Benke, J.; We Concur: Kremer, P.J., Haller, J.

D040774 In re Inglett on Habeas Corpus

The petition is denied.

D040923 In re Villareal on Habeas Corpus

The petition is denied.

Court convened at 10:00 a.m. (VISTA ORAL ARGUMENT)

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

D038272 People v. Wallace

Cause called on merits. Joanna McKin, Esq. argued for appellant. Carlson LeGrand, Deputy Attorney General argued for respondent. Ms. McKin replied. Cause submitted.

D039023 Burtech Pipeline, Inc. v. Dudek & Associates Inc., et al.

Cause called on merits. David A. Perkins, Esq. argued for appellant. Pamela Lawton Wilson, Esq. argued for respondent. Mr. Perkins replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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D039006 Olszewski v. Rincon Del Diablo Municipal

Cause called on merits. Randall C. Sterling, Esq. argued for appellant. Golnar Fozi, Esq. argued for respondent. Mr. Sterling replied. Cause submitted.

D038561 O'Meara v. Palomar Pomerado Health System, et al.

Cause called on merits. Tom Tosdal, Esq. argued for appellant. Carlo Coppo, Esq. argued for respondent. Mr. Tosdal replied. Cause submitted.

Vista oral argument adjourned at 11:50 a.m.